

(4) such other information that the Commission considers relevant to discovering or determining the existence of general or special conditions unfavorable to shipping in the foreign trade of the United States.

(c) Any marine terminal operator to furnish any or all of the following information:

(1) Marine terminal facilities agreements, whether or not on file with the Commission, into which it has entered with any ocean carrier in the affected trade;

(2) Information for a representative period showing the difference between the rates agreed to for use of its facilities by any ocean carrier serving the affected trade pursuant to an agreement authorizing preferential treatment or lease terms and those rates which would otherwise have applied to such services or leases.

§ 585.203 Failure to provide information.

(a) A person who fails to file a report, answer, documentary material, or other information required under this subpart shall be liable to the United States Government for a civil penalty of not more than \$5,000 for each day that the information is not provided.

(b) The Commission may, when there is a failure to produce any information ordered produced under § 585.201, make appropriate findings of fact and inferences, including the inference that conditions unfavorable to shipping in the foreign trade of the United States do exist.

Subpart C—Conditions Unfavorable to Shipping

§ 585.301 Findings.

For the purposes of this part, conditions created by foreign governmental action or competitive methods of owners, operators, agents or masters of foreign vessels are found unfavorable to shipping in the foreign trade of the United States, if such conditions:

(a) Impose upon vessels in the foreign trade of the United States fees, charges, requirements, or restrictions different from those imposed on other vessels competing in the trade, or preclude vessels in the foreign trade of the

United States from competing in the trade on the same basis as any other vessel;

(b) Reserve substantial cargoes to the national flag or other vessels and fail to provide, on reasonable terms, for effective and equal access to such cargo by vessels in the foreign trade of the United States;

(c) Are discriminatory or unfair as between carriers, shippers, exporters, importers, or ports or between exporters from the United States and their foreign competitors and which cannot be justified under generally accepted international agreements or practices and which operate to the detriment of the foreign commerce or the public interest of the United States;

(d) Restrict or burden a carrier's intermodal movements or shore-based maritime activities, including terminal operations and cargo solicitation; forwarding and agency services; non-vessel-operating common carrier operations; or other activities and services integral to transportation systems; or

(e) Are otherwise unfavorable to shipping in the foreign trade of the United States.

Subpart D—Petitions for Section 19 Relief

§ 585.401 Who may file.

Any person who has been harmed by, or who can reasonably expect harm from, existing or impending conditions unfavorable to shipping in the foreign trade of the United States, may file a petition for relief under the provisions of this part.

§ 585.402 Filing of petitions.

All requests for relief from conditions unfavorable to shipping in the foreign trade shall be by written petition. An original and fifteen copies of a petition for relief under the provisions of this part shall be filed with the Secretary, Federal Maritime Commission, Washington, DC 20573. The petition shall be accompanied by remittance of a \$177 filing fee.

[63 FR 50537, Sept. 22, 1998]

EFFECTIVE DATE NOTE: At 63 FR 50537, Sept. 22, 1998, § 585.402 was revised, effective

§ 585.403

Nov. 2, 1998. For the convenience of the user, the superseded text is set forth as follows:

§ 585.402 Filing of petitions.

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§ 585.403 Contents of petitions.

Petitions for relief from conditions unfavorable to shipping in the foreign trade of the United States shall set forth the following:

(a) A concise description and citation of the foreign law, rule, regulation, practice or competitive method complained of;

(b) A certified copy of any law, rule, regulation or other document involved and, if not in English, a certified English translation thereof;

(c) Any other evidence of the existence of such practice or competitive method;

(d) A clear description, in detail, of the harm already caused or which may reasonably be expected to be caused petitioner, including:

(1) Statistics for the representative period showing the type and amount of revenue loss or operating cost increase suffered or projected, such as a present or prospective cargo loss if harm is alleged on that basis. Such statistics shall include figures which permit comparison or computation of the proportional effect of the harm alleged. For example, when the harm alleged is loss of cargo, supporting evidence shall include the total cargo carried or projected in the trade for the period;

(2) Statistics or other evidence for the representative period showing increased costs, inferior services or other harm to cargo or other non-vessel interest if injury is claimed on that basis; and

(3) A statement as to why the period is representative.

(e) A recommended regulation, the promulgation of which will, in the view of the petitioner, adjust or meet the alleged conditions unfavorable to shipping in the foreign trade of the United States.

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§ 585.404 Amendment or dismissal of petitions.

Upon the failure of a petitioner to comply with the provisions of this part, the petitioner will be notified by the Secretary and afforded reasonable opportunity to amend its petition. Failure to timely amend the petition may result in its dismissal. For good cause shown additional time for amendment may be granted.

Subpart E—Proceedings

§ 585.501 Participation of interested persons.

In the event that participation of interested persons is deemed necessary by the Commission, notice will be published in the FEDERAL REGISTER and interested persons will then be allowed to participate in this proceeding by the submission of written data, views or arguments, with or without opportunity to present same orally.

§ 585.502 Discovery.

The Commission may authorize a party to a proceeding to use depositions, written interrogatories, and discovery procedures that, to the extent practicable, are in conformity with the rules applicable in civil proceedings in the district courts of the United States.

§ 585.503 Subpoenas.

In proceedings under this part, the Commission may by subpoena compel the attendance of witnesses and the production of books, papers, documents, and other evidence.

§ 585.504 Witness fees.

In proceedings under this subpart, witnesses are, unless otherwise prohibited by law, entitled to the same fees and mileage as in the courts of the United States, subject to funds being provided by appropriations Acts.

§ 585.505 Failure to supply information.

For failure to supply information ordered to be produced or compelled by subpoena in proceedings under this part, the Commission may—